

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-20340-CR-WILLIAMS(s)

UNITED STATES OF AMERICA,

vs.

MASPHAL KRY,

Defendant . /

**GOVERNMENT'S URGENT REQUEST FOR
DELAY IN PRODUCTION OF JENKS MATERIAL**

The United States of America hereby requests a brief extension to this Court's prior Order requiring the production of *Jenks* material relevant to the government's intended witnesses in this matter through Friday, September 8, 2023, and in support thereof would show:

This Honorable Court previously ordered a two-part production of *Jenks* material by the government. The first portion, with respect to the cooperating witness, was due August 25, 2023, and was timely provided to the defense herein.

The second portion, with respect to other witnesses known to the United States, was scheduled by today, September 5, 2023.

In the interim, the defense has objected to the Court's reset of the trial date in this matter to October 23, 2023, urging delay through a late January 2024 calendar period. The matter is set to be taken up on Wednesday, September 6, 2023, by zoom hearing. D.E.-168.

The United States contacted counsel for defense regarding the possibility of a brief delay, largely due to a technical issue securing and producing relevant emails by agents of the government who likely will testify at trial. Although the agency has been diligently attempting

to isolate the relevant material for more than a month, that process is not yet complete. Some material is currently available, but an immediate response would result in incomplete production. The government has also offered to attempt an electronic sort of the emails to remove duplicative email threads but is not certain how long that will require. A request for that information is pending.

The United States has also been informed today that the defense is proposing a rescheduling of the Rule 15 depositions in this matter until an as yet unspecified date in October or November due to an inability to locate a court reporter.

Given that the current production schedule for Jenks material contemplated a trial beginning September 26th, it is clear that intervening events have removed the immediacy of the need for such advanced production – whatever the outcome of the pending zoom hearing. Accordingly, the United States requests this Honorable Court grant a continuance of the production schedule through Friday, September 8, to allow further discussion and resolution of these issues at the hearing. The government is of the belief that the defense could suffer no appreciable prejudice from the relief requested herein.

While this Motion is captioned as “urgent,” the United States did not deem it appropriate for an “emergency” Motion pursuant to the Local Rules of Court.

Rule 88.9 Certification

Counsel for the defendant has advised they oppose the requested extension for material ready to be produced today, but do not oppose the extension to Friday for materials still being processed. They also noted that the effort to remove duplicative material would be appreciated provided it did not unduly delay the ultimate production.

Conclusion

Based upon the foregoing discussion, the United States respectfully requests the Court extend the deadline for further production of Jenks material by the government in this matter through Friday, September 8, 2023, and take this matter up for further discussion at hearing scheduled for September 6, 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2023, I electronically filed the foregoing with the Clerk of the Court using CM/ECF.

By: /s/ Thomas A. Watts-FitzGerald
Assistant United States Attorney